

ADMINISTRATIVE RULES

CHAPTER 20:06:48

HEALTH INSURANCE RISK POOL

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20:06:48:01. Eligible person -- Defined. An eligible person is a person eligible for risk pool coverage pursuant to SDCL 58-17-85 and 58-17-136.

Source: 30 SDR 51, effective October 28, 2003.

General Authority: SDCL 58-17-124(1).

Law Implemented: SDCL 58-17-85, 58-17-124(1).

20:06:48:02. Enrollment forms. Any person applying for coverage under the risk pool shall complete the application form specifically designed for the risk pool and a

health risk assessment form. The information contained on the health risk assessment form may not be used to determine eligibility for the risk pool.

Source: 30 SDR 51, effective October 28, 2003.

General Authority: SDCL 58-17-124(5)(6).

Law Implemented: SDCL 58-17-124(5)(6).

20:06:48:03. Tolling of 63-day timeframe. Any substantially completed application, whether an underwritten application or one specifically designed for the risk pool, tolls the 63-day timeframe. If the application results in coverage, the days starting on the date of the substantially completed application through the date coverage begins, are not taken into account in determining whether the 63-day timeframe has been reached. If the application does not result in coverage, the tolling of the 63-day timeframe ends on the date the application is denied by the issuer or on the date the offer of coverage lapses. This section does not reduce the timeframes allowed for a risk pool applicant to apply as provided for in §§ 20:06:48:04 to 20:06:48:06, inclusive, or effect eligibility as provided for by § 20:06:48:17.

Source: 30 SDR 51, effective October 28, 2003; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL 58-17-124(5).

Law Implemented: SDCL 58-17-85, 58-17-124(5).

20:06:48:04. Risk pool application timeframe. An eligible person who is rejected by a carrier due to medical underwriting may submit an application to the risk pool board after the 63-day timeframe, if the application is made within 30 days of receiving notice of the rejection from the carrier, in order to maintain eligibility pursuant to SDCL 58-17-85. However, an eligible person who is within the 63-day timeframe following loss of creditable coverage is not disqualified from coverage under the risk pool plan if the eligible person applies for coverage under the risk pool plan more than 30 days after receiving a notice of rejection.

Source: 30 SDR 51, effective October 28, 2003.

General Authority: SDCL 58-17-124(5).

Law Implemented: SDCL 58-17-85, 58-17-124(5).

20:06:48:05. Effective date of risk pool coverage. Upon receipt of an application from an eligible person, the risk pool board shall issue the plan with an effective date corresponding to the date of the application. If an eligible person makes the application prior to the actual date of termination of existing creditable coverage, the risk pool board may issue the plan with an effective date coinciding with the termination date of the creditable coverage. The effective date of risk pool coverage may not be any earlier than August 1, 2003, regardless of the qualifying circumstances. The risk pool board and the eligible person may agree to an effective date other than what is required by this section.

Source: 30 SDR 51, effective October 28, 2003.

General Authority: SDCL 58-17-124(5).

Law Implemented: SDCL 58-17-85, 58-17-124.

20:06:48:06. Prior application for major medical coverage. If prior to application to the risk pool, an eligible person applies for major medical coverage subject to the provisions of SDCL 58-17-66 to 58-17-87, inclusive, and the application is rejected by the carrier, the date of the application to the carrier is the date the risk pool shall use for purposes of § 20:06:48:05 as long as the eligible person applies to the risk pool within 30 days of the date of the carrier's rejection.

Source: 30 SDR 51, effective October 28, 2003.

General Authority: SDCL 58-17-124(5).

Law Implemented: SDCL 58-17-85, 58-17-124.

20:06:48:07. Payment of insurance producer commission. An insurance producer shall be paid the commission for placement of risk pool coverage by direct deposit on a quarterly basis. However, no commission is payable in any quarter unless the insurance producer has earned less than \$25 in commission. The insurance producer will be paid commission at least annually regardless of the amount due.

Source: 30 SDR 51, effective October 28, 2003.

General Authority: SDCL 58-17-124(9)

Law Implemented: SDCL 58-17-141.

20:06:48:08. Denial of claim. A risk pool enrollee shall be notified in writing if the enrollee's claim for benefits is denied. The explanation of benefits (EOB) shall include the specific reason the claim was denied and the address for making an appeal.

Source: 30 SDR 51, effective October 28, 2003.

General Authority: SDCL 58-17-124(6)(7).

Law Implemented: SDCL 58-17-124(6)(7).

20:06:48:09. Appeals. If a claim is denied, the risk pool enrollee may appeal in writing to the claims administrator within 180 days of the date of the denial at the address listed on the EOB or in the written utilization review denial. If the claims administrator again denies the claim, the risk pool enrollee may appeal in writing to the director of risk pool benefits, c/o the Bureau of Personnel, 500 East Capitol Avenue, Pierre, SD 57501, within 30 days of receiving notification of the denial. The director of risk pool benefits shall issue a written decision within 30 days from the date that the appeal is received. If the director of risk pool benefits denies the claim, the enrollee may appeal in writing to the risk pool board and the board shall issue a written decision on the appeal.

If the subject matter of the appeal is not a claim, the enrollee shall file an appeal directly to the director of risk pool benefits within 180 days of the date of the decision, and if not satisfied with the decision of the director, may appeal to the board within 30

days of the date of that decision. The enrollee may appeal any decision of the risk pool board to the circuit court in accordance with SDCL 1-26.

Source: 30 SDR 51, effective October 28, 2003.

General Authority: SDCL 58-17-124(5)(7)(9).

Law Implemented: SDCL 58-17-124(5)(7)(9).

20:06:48:10. Payment of risk pool premiums. Unless other arrangements have been made through the director of the risk pool benefits, an eligible person shall include with the application an automated clearing house (ACH) form and payment for the current month's and the subsequent month's premium. After the initial premium payment, any premium payment must be made by automatic withdrawal, unless specific arrangements have been made with the director of risk pool benefits. Each monthly withdrawal shall equal the premium payment due to provide coverage for the subsequent month.

Source: 30 SDR 51, effective October 28, 2003.

General Authority: SDCL 58-17-124(7).

Law Implemented: SDCL 58-17-124(7).

20:06:48:11. Coverage cancellation for nonpayment of premium. If an account has insufficient funds to allow the automatic withdrawal of the monthly premium, a second attempt to collect the premium shall be made within four to six days of the original deduction date. If the account still has insufficient funds, the risk pool coverage

shall be canceled. If a premium payment is made through any method other than automatic withdrawal, any failure to make the required premium payment by the premium due date may result in the risk pool coverage being canceled at the discretion of the risk pool plan. An enrollee who fails to make a required premium payment shall receive one grace period in each calendar year. Such enrollee shall be notified of the once-a-year grace period in writing. The grace period is an additional 15 days after the cancellation date specified in this section.

Source: 30 SDR 51, effective October 28, 2003.

General Authority: SDCL 58-17-124(5).

Law Implemented: SDCL 58-17-124(5), 58-17-136.

20:06:48:12. Lifetime benefit limit. The one million dollar lifetime maximum for an enrollee applies to all plans in the aggregate that an enrollee may have under the risk pool. A separate lifetime maximum does not start if the enrollee changes plans or if the enrollee leaves the pool and subsequently enrolls in the risk pool again.

Source: 30 SDR 51, effective October 28, 2003.

General Authority: SDCL 58-17-124(7).

Law Implemented: SDCL 58-17-124(7), 58-17-134.

20:06:48:13. Changing plans. After an enrollee has selected one of the three plans available, the enrollee may not change plans except at the beginning of a new fiscal

year and only if the plan change involves an increase in the deductible. The enrollee shall provide written notification to the risk pool board of the enrollee's request to change plans prior to the beginning of the new fiscal year.

Source: 30 SDR 51, effective October 28, 2003.

General Authority: SDCL 58-17-124(7).

Law Implemented: SDCL 58-17-124, 58-17-130.

20:06:48:14. One-person group ineligible. A one-person employer group plan that terminates group coverage either by formal notice by the employer to terminate coverage or by failure to pay premiums is ineligible for risk pool coverage. For purposes of this section, a one-person group is one in which the covered employee and the employer are the same person.

Source: 30 SDR 51, effective October 28, 2003.

General Authority: SDCL 58-17-124(5).

Law Implemented: SDCL 58-17-85, 58-17-124(5), 58-17-136.

20:06:48:15. Cooperation required. An enrollee must cooperate with the risk pool board by providing information, upon request, that shows continued eligibility for the risk pool and by submitting applications for health insurance and other applicable programs. Cooperation, in the form of payment of copayments, coinsurance and deductible amounts to a provider for services covered by the risk pool, is required for

continued eligibility for the risk pool. The failure of an enrollee, upon notice by the plan, to remit to a provider copayments, coinsurance, and deductibles for services covered by the risk pool in a manner satisfactory to the risk pool administrator is sufficient grounds for the termination of coverage in the risk pool for that enrollee.

Source: 30 SDR 51, effective October 28, 2003; 32 SDR 203, effective June 5, 2006.

General Authority: SDCL 58-17-124(5)(7).

Law Implemented: SDCL 58-17-124(5)(7), 58-17-136.

20:06:48:16. Preexisting condition waiting period prohibited. No plan of coverage provided through the risk pool may contain any waiting period for preexisting conditions for individuals eligible for coverage pursuant to SDCL 58-17-85.

Source: 30 SDR 51, effective October 28, 2003.

General Authority: SDCL 58-17-124(7).

Law Implemented: SDCL 58-17-130.

20:06:48:17. Eligibility -- Exclusionary rider. A person otherwise eligible for coverage pursuant to SDCL 58-17-85 does not lose eligibility for the risk pool if the other

coverage offered or issued to the person is a policy or certificate that contains any exclusionary rider based upon the person's health history.

Source: 30 SDR 51, effective October 28, 2003.

General Authority: SDCL 58-17-124(5).

Law Implemented: SDCL 58-17-85.

20:06:48:18. Public health plans. For purposes of this chapter, a public health plan is any plan established or maintained by a state, the U.S. government, a foreign country, or any political subdivision of a state, the U.S. government, or a foreign country that provides health coverage to individuals who are enrolled in the plan.

The term, public health plan, includes coverage provided for under the public health system of a foreign country. For purposes of eligibility under SDCL 58-17-85, coverage provided under the public health system of a foreign country as a public health plan may not be the person's last coverage unless the public health plan also constitutes a group health plan.

Source: 31 SDR 214, effective July 6, 2005.

General Authority: SDCL 58-17-124(5).

Law Implemented: SDCL 58-17-85, 58-17-124(5).

20:06:48:19. Eligibility based upon residence. For purposes of SDCL 58-17-85 a person is not eligible for enrollment into the risk pool if the person does not have a

physical residence in South Dakota such as a house, apartment, condominium, or other similar place where the person resides. A physical residence does not include a post office box or the address of another mail service purchased by the person. A person who maintained a physical residence in South Dakota for at least one year in the prior ten years and subsequent to maintaining the physical residence in South Dakota has had no physical residence in any other state is considered to be a resident of this state pursuant to SDCL 58-17-85.

Source: 32 SDR 203, effective June 5, 2006.

General Authority: SDCL 58-17-87, 58-17-124.

Law Implemented: SDCL 58-17-85.

20:06:48:20. Termination of coverage due to fraud. Any coverage or benefits provided by the risk pool shall terminate when the enrollee acts in a fraudulent manner or makes an intentional misrepresentation of a material of fact, including falsifying information.

Source: 33 SDR 226, effective June 25, 2007.

General Authority: SDCL 58-17-124(7).

Law Implemented: SDCL 58-17-85.

20:06:48:21. Claims paid in error -- Debt subject to recovery. If any claim is paid on behalf of an individual and the administrator subsequently finds that the individual was

ineligible for the benefits paid due to fraud, the claim was paid in error. A claim paid in error constitutes a debt to the plan and is subject to recovery from the individual by the plan.

Source: 33 SDR 226, effective June 25, 2007.

General Authority: SDCL 58-17-124(7).

Law Implemented: SDCL 58-17-85.